

<i>Interview Summary</i>	Application No.	Applicant(s)	
	10/647,991	MOENNING ET AL.	
	Examiner	Art Unit	
	Shumaya B. Ali	3743	

All participants (applicant, applicant's representative, PTO personnel):

- (1) inventor: Dr. John Moenning and Mr. Dennis Irbec- (3)applicant's attorney: Victor Indiana.
(2) representative:Mr. Kevin Burrow- (4)Primary Examiner:Teena Mitchell.

Date of Interview: 07 September 2005.

Type: a) Telephonic b) Video Conference
c) Personal [copy given to: 1) applicant 2) applicant's representative]

Exhibit shown or demonstration conducted: d) Yes e) No.

If Yes, brief description: applicant's demonstration of the invention, a dental anesthesia administration mask is highly appreciated.

Claim(s) discussed: 8, 14, and 19 are amended to overcome claim rejection under section 112.

Identification of prior art discussed: See Continuation Sheet.

Agreement with respect to the claims f) was reached. g) was not reached. h) N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See *Continuation Sheet*.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Brian Mitchell Brian Mitchell
Examiner's signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,

(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Identification of prior art discussed: A quick search was done prior to the interview and US Patents

4151843 and 4248218 seem to read on the applicant's claimed invention. It was suggested to the Applicant by Examiner Ali that Applicant may want to review the US Patents given to him, showing patient end within the naris and to amend the claims which may then be readable over the prior art. Examiner Ali advised Applicant while only two references were provided showing the limitations of the patient end within the naris, an extensive search had not been done prior to the interview, therefore even if Applicant is able to amend the claims over the two listed references there could be other prior art readable upon any amended claims and upon submission of Applcant's amendment to the office action and updated search would be made. Examiner Ali advised Applicant that the claims as proposed would not be patentable over the prior art listed above.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Discussion on the changes to the Specification/Drawing: (a) new drawing objection was made regarding reference element 110 in figure 1A. Applicant may be referring to different parts using the same reference number. 110 on page 21 referred to "an integrated eye protector" see line16 and a "device" see line 20, and 110 in fig. 1A is pointing to the device. Applicant was suggested to clarify whether 110 is referring to a common or distinct elements.

(b) Although not discussed during the interview, but previously presented in the office action mailed on 6/2/05 the drawing fails to show " inflation valve" recited in claim 8. Applicant is suggested to point out an inflation valve in the drawing.

Discussion on the novelty of the invention: Applicant addressed that an inspiratory gas line being received within the naris of the patient for delivering inspiratory gas being the key feature of the invention. These limitations are also found in all the independent claims. However, while the examiner was in agreement that Blasdell (5,419,317) was not readable upon the limitations of "the patient end being configured for being received within the naris of the patient", the examiner presented US Patents 4151843 and 4248218 which showed the applicant that such limitations are known in the art. Both of these references disclose gas being delivered within the naris of a patient. Examiner Ali advised Applicant that the proposed amendment to the claims were not patentable over the prior art and if submitted as proposed could be rejected with newly found art, which depicts the patient end into the naris. However, because Applicant's arguments were persuasive with respect to the patient end being received within the naris and Blasdell not being readable upon such limitations, the examiner would not Final any action which would stem from Applicant's response to the office action. Additionally, applicant is to submit support for any changes to the claims in his response to the office action.

Dr. Moenning is to possibly submit an Affidavit providing support for his claimed invention, which meet or exceed the American Dental Association (ADA) and The National Institute for Occupational Safety and Health (NIOSH) set guidelines and recommendations on efficient delivery of anesthetic gas to a patient while maintaining minimum gas leakage to the environment.

Examiner highly appreciates applicant's time and effort in discussing and demonstrating the invention.